IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

ITA.No. 134 of 2000

(ITA.19/COCH/1996 of INCOME TAX APPELLATE TRIBUNAL,COCHIN BENCH)

APPELLANT/ASSESSEE :

M/S. SAFA WOOD INDUSTRIES,
MATTANNUR, REPRESENTED BY ITS MANAGING PARTNER,
K.P. MOHAMMED SALIM.

BY ADV. SRI.DALE P.KURIEN
ADV. SRI.MAHESH MADHAVAN

RESPONDENT/REVENUE:

THE COMMISSIONER OF INCOME TAX,
COCHIN.

BY ADV. SRI.P.K.R.MENON(SR.),SR.COUNSEL FOR IT
BY ADV. SRI.GEORGE K. GEORGE, SC FOR IT

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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INCOME TAX APPEAL No. 134 OF 2000

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Dated this the 6th August, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The assessee has filed this appeal under section 260A of the Income Tax Act, being aggrieved by the orders passed by the Income Tax Appellate Tribunal in I.T.(S&S)A.No. 19(Coch)/96 for the assessment years 1986-87 to 1996-97 dated 12.03.1999.

2. In the memorandum of appeal, the assessee has raised the following substantial questions of law for our consideration and decision; they are as under:

> *"(1) Was the Tribunal correct in law and justified in finding that the order of assessment under section 158 BC is proper in the absence of an opportunity for the assessee of being heard in the matter?*
>
> *(2) Was the Appellate Tribunal correct in law in finding that the assessment made is proper being in compliance with S.127, S.120(1) and the other relevant provisions of the Income Tax Act?*
>
> *(3) Was the Appellate Tribunal justified , in the facts and circumstances of the case, in ratifying the validity and correctness of the assessment order which is passed ignoring the stocklist of timber prepared by the department at the time*

of search on the premises of the assessee and thereby not allowing a costwise deduction for the damaged timber?"

3. Learned Standing Counsel appearing for the respondent, Shri George K. George would submit that the issues raised in this appeal is fully covered by the decision of this Court in **K.V. Kader Haji (Decd.) vs. Commissioner of Income Tax ([2004] 268 ITR 465).**

4. We have carefully perused the law declared by this court in the aforesaid decision. The issues raised in this appeal are identical with the issues raised and considered in the aforesaid decision. Therefore, the issues raised by the assessee requires to be answered against the assessee and in favour of the revenue and it is answered against the assessee and in favour of the revenue.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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H.L. DATTU, C.J.&
K.T. SANKARAN, J.

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I.T.A.No. 134 OF 2000

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Dated this the 6th August,2007

J U D G M E N T